

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

v.

RICHARD LEON WILBERN,  
Defendant.

**ORDER**

17-cr-6016-CJS-JWF  
17-cr-6017-CJS-JWF

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Currently pending before the Court are defendant Richard Leon Wilbern's ("the defendant") pre-trial motions. The Court held oral argument on October 23, 2018. Since that time, the parties have exchanged a series of post-argument briefs and letters, most recently with respect to a third-party discovery issue. The Court set a schedule for defense counsel to notify the Court of its position on a protective order to resolve the discovery issue and defense counsel requested additional time to do so.

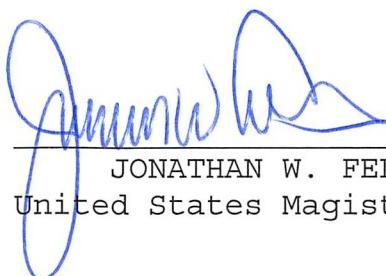
Defendant's submission regarding on the issue of a protective order is due on January 3, 2019. The government shall respond on or before January 17, 2019. The Court will hold a status conference on January 22, 2019, at 11:00 a.m.

Section 3161(h)(1)(J) of Title 18, U.S.C. permits the exclusion of 30 days once a motion is taken "under advisement" by the court. A motion is taken under advisement "once the court has everything it expects from the parties prior to making its decision." United States v. Piteo, 726 F.2d 50, 52 (2d Cir. 1984);

United States v. Bufalino, 683 F.2d 639, 642-44 (2d Cir. 1982),  
cert. denied, 459 U.S. 1104 (1983).

Accordingly, the Court will deem the defendant's motions "under advisement" after the status conference. The parties have already agreed - on the record - to a 60-day advisement period to commence after the status conference.

SO ORDERED.



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JONATHAN W. FELDMAN  
United States Magistrate Judge

Dated: January 2, 2019  
Rochester, NY